

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

TIMOTHY CHARLEY, individually, as
personal representative of the ESTATE OF
NENA CHARLEY, and as parent and next
friend of NILE CHARLEY,

Plaintiffs,

vs.

No. CIV 22-0033 JB/JFR

THE UNITED STATES OF AMERICA;
ROBIN RANELL SALES, R.N.; JOELLE
CATHERIN CERO GO, R.N.; AB STAFFING
SOLUTIONS, LLC, A FOREIGN
CORPORATION; NEXT MEDICAL
STAFFING, A FOREIGN CORPORATION
and JOHN OR JANE DOE CORPORATION,

Defendants.

ORDER¹

THIS MATTER comes before the Court on (i) Defendant United States' Motion for Protective Order Regarding the Deposition of Dr. Eric Ketcham, filed September 27, 2023 (Doc.

¹This Order disposes of the (i) Defendant United States' Motion for Protective Order Regarding the Deposition of Dr. Eric Ketcham, filed September 27, 2023 (Doc. 184); (ii) the Plaintiffs' Motion for Protective Order Regarding the Deposition of Bruce W. Polsky, M.D., filed October 19, 2023 (Doc. 212); (iii) Defendant United States' Motion to Exclude the Testimony of Bruce W. Polsky for Failure to Appear At His Court-Ordered Deposition, filed November 7, 2023 (Doc. 221); (iv) the Plaintiffs' Motion for Reconsideration of the Court's Order Granting Defendant United States' Motion to Exclude Dr. Polsky as an Expert (Doc. 221), filed November 30, 2023 (Doc. 228); (v) Defendants Joelle Catherin Cero Go, R.N. and AB Staffing Solutions, LLC's Motion for Summary Judgment, filed December 8, 2023 (Doc. 233); (vi) Defendants Robin Ranell Sales, R.N. and Next Medical Staffing's Motion for Summary Judgment, filed December 8, 2023 (Doc. 234); (vii) the United States' Motion for Summary Judgment for Lack of Causation on Plaintiffs' Loss Of Chance Claim, filed December 8, 2023 (Doc. 235); and (viii) the Plaintiffs' Emergency Motion to Vacate and Reset January 5, 2024 Hearing on Defendants Motions for Summary Judgment (Docs. 233, 234, 235), filed January 4, 2024 (Doc. 250). The Court will issue at a later date, however, a Memorandum Opinion more fully detailing its rationale for its decision.

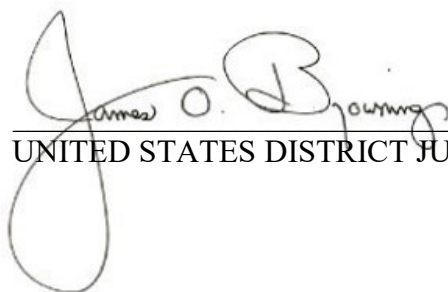
184)(“US MPO”); (ii) the Plaintiffs’ Motion for Protective Order Regarding the Deposition of Bruce W. Polsky, M.D., filed October 19, 2023 (Doc. 212)(“Plaintiffs MPO”); (iii) Defendant United States’ Motion to Exclude the Testimony of Bruce W. Polsky for Failure to Appear At His Court-Ordered Deposition, filed November 7, 2023 (Doc. 221)(“MTE”); (iv) the Plaintiffs’ Motion for Reconsideration of the Court’s Order Granting Defendant United States’ Motion to Exclude Dr. Polsky as an Expert (Doc. 221), filed November 30, 2023 (Doc. 228)(“MFR”); (v) Defendants Joelle Catherin Cero Go, R.N. and AB Staffing Solutions, LLC’s Motion for Summary Judgment, filed December 8, 2023 (Doc. 233)(“Go and AB Staffing MSJ”); (vi) Defendants Robin Ranell Sales, R.N. and Next Medical Staffing’s Motion for Summary Judgment, filed December 8, 2023 (Doc. 234)(“Sales and Next Medical MSJ”); (vii) the United States’ Motion for Summary Judgment for Lack of Causation on Plaintiffs’ Loss Of Chance Claim, filed December 8, 2023 (Doc. 235)(“US MSJ”); and (viii) the Plaintiffs’ Emergency Motion to Vacate and Reset January 5, 2024 Hearing on Defendants Motions for Summary Judgment (Docs. 233, 234, 235), filed January 4, 2024 (Doc. 250)(“MTV”). The Court held hearings on (i) October 13, 2023, see Clerk’s Minutes at 1, filed October 13, 2023 (Doc. 220)(“October 13 Hearing Minutes”); (ii) November 14, 2023, see Clerk’s Minutes at 1, filed November 14, 2023 (Doc. 231)(“November 14 Hearing Minutes”); and (iii) January 5, 2024, see Clerk’s Minutes at 1, filed on January 5, 2024 (Doc. 259)(“January 1 Hearing Minutes”). For the reasons stated on the record at the three hearings, the Court (i) denies the US MPO, see Transcript of Hearing at 107:8-12 (taken October 13, 2023)(“October 13 Tr.”)(Court); (ii) denies the Plaintiffs MPO as moot; (iii) grants the MTE, see Draft Transcript of Hearing at 43:1-5 (taken November 14, 2023)(“November 14 Tr.”)(Court)²;

² The Court’s citations to the transcripts of the hearings on November 14, 2023, and January 5, 2024, refer to the court reporter’s original, unedited versions. Any final transcript may contain

(iv) denies the MFR, see Draft Transcript of Hearing at 38:3-10 (taken January 5, 2024)(“January 5 Tr.”)(Court); (v) grants the Go and AB Staffing MSJ, see January 5 Tr. at 116:1-17 (Court); (vi) grants the Sales and Next Medical MSJ, see January 5 Tr. at 116:1-17; (vii) grants the US MSJ, see January 5 Tr. at 116:1-17; and (viii) denies the MTV as moot.

IT IS ORDERED that (i) Defendant United States’ Motion for Protective Order Regarding the Deposition of Dr. Eric Ketcham, filed September 27, 2023 (Doc. 184), is denied; (ii) the Plaintiffs’ Motion for Protective Order Regarding the Deposition of Bruce W. Polsky, M.D., filed October 19, 2023 (Doc. 212), is denied; (iii) Defendant United States’ Motion to Exclude the Testimony of Bruce W. Polsky for Failure to Appear At His Court-Ordered Deposition, filed November 7, 2023 (Doc. 221), is granted; (iv) the Plaintiffs’ Motion for Reconsideration of the Court’s Order Granting Defendant United States’ Motion to Exclude Dr. Polsky as an Expert (Doc. 221), filed November 30, 2023 (Doc. 228), is denied; (v) Defendants Joelle Catherin Cero Go, R.N. and AB Staffing Solutions, LLC’s Motion for Summary Judgment, filed December 8, 2023 (Doc. 233), is granted; (vi) Defendants Robin Ranell Sales, R.N. and Next Medical Staffing’s Motion for Summary Judgment, filed December 8, 2023 (Doc. 234), is granted; (vii) the United States’ Motion for Summary Judgment for Lack of Causation on Plaintiffs’ Loss Of Chance Claim, filed December 8, 2023 (Doc. 235), is granted; and (viii) the Plaintiffs’ Emergency Motion to Vacate and Reset January 5, 2024 Hearing on Defendants Motions for Summary Judgment (Docs. 233, 234, 235), filed January 4, 2024 (Doc. 250), is denied.

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UNITED STATES DISTRICT JUDGE

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